

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA	)	
	)	
v.	)	
	)	No. 1:18-CR-457-AJT
BIJAN RAFIEKIAN, <i>et al.</i> ,	)	
	)	
Defendants.	)	

GOVERNMENT'S MOTION TO CONTINUE HEARING ON  
DEFENDANT'S MOTION TO COMPEL RECORDS

The United States respectfully requests a four-week continuance, to April 12, 2019, of the hearing on defendant's motion to compel production of certain FBI summaries of interviews (302s) and other documents. The government also requests that it be permitted to file its response to the defendant's motion by April 5, 2019. The reasons for this motion are the following:

1. The defense filed its Motion To Compel Records on Friday, March 1, 2019. The Court's local rules allow the government fourteen days to respond to a motion. LOC. CRIM. R. 12. The hearing currently set for March 15 would not allow the government the time normally allotted for a response to a motion.

2. Further, there is no urgency to the defense motion. The government has already permitted the defense to review a number of 302s, including several 302s of General Flynn. We have offered upon reasonable conditions to give the defense an opportunity to review *all* of the General's 302s that were generated during its investigation of the crimes charged in the indictment, as well as redacted versions of *all* of his 302s mentioning the defendants or the Government of Turkey, regardless of whether they relate to this prosecution or to other

investigations by the Special Counsel's Office. So far, despite two requests, the defense has not provided a counterproposal to the conditions we have proposed.

3. The 302s of General Flynn's interviews relating entirely to matters other than the pending charges against the defendant contain information concerning a number of sensitive matters, including ongoing investigations. The government is attempting to coordinate within the Department of Justice on a potential resolution that could moot much of the defendant's request. However, this coordination requires time because of the various interests involved.

4. Moreover, without getting into the merits of the defendant's motion, whatever value the defense may glean from eliciting at trial allegedly inconsistent statements by General Flynn – particularly on matters wholly unrelated to the charges at hand, it would not be diminished by a four-week continuance of the hearing. There would still be more than three months before trial, which would be ample time for the defense to make use of the information. Indeed, the standard discovery order in this District provides for production of *Jencks* and *Giglio* materials five days before trial.<sup>1</sup>

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<sup>1</sup> Nonetheless, the government provides *Giglio* information promptly upon discovery except in the most extraordinary cases involving witness safety or similarly compelling reasons.

For these reasons, the United States respectfully requests that the Court continue the hearing on the defendant's motion to compel until April 12, 2019, and permit the government to file its response to the defendant's motion by April 5, 2019.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that on March 12, 2019, I electronically filed the foregoing using the CM/ECF system, which will send a notification of such filing to counsel of record.

Respectfully submitted,

/s/  
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Assistant United States Attorney